

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Connect America Fund)	WC Docket No. 10-90
)	
A National Broadband Plan for Our Future)	GN Docket No. 09-51
)	
Establishing Just and Reasonable Rates for Local Exchange Carriers)	WC Docket No. 07-135
)	
High-Cost Universal Service Support)	WC Docket No. 05-337
)	
Developing a Unified Intercarrier Compensation Regime)	CC Docket No. 01-92
)	
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45
)	
Lifeline and Link-Up)	WC Docket No. 03-109
)	
Universal Service Reform — Mobility Fund)	WT Docket No. 10-208

**COMMENTS OF GVEC.NET IN RESPONSE TO
PUBLIC NOTICE DA 12-1007, RELATING TO
CENTURYLINK PETITION FOR LIMITED WAIVER OF
CERTAIN HIGH-COST UNIVERSAL SERVICE RULES**

GVEC.net, which provides broadband access services to over 4,500 customers in some of the most-rural, sparsely-populated areas in thirteen counties in South Central Texas, submits these Comments pursuant to sections 1.415 and 1.419 of the Commission's rules and in response to the June 27, 2012 Notice from the Wireline Competition Bureau regarding CenturyLink's Petition in the above-captioned dockets.¹

GVEC.net respectfully objects to CenturyLink's Petition on the whole and as it specifically relates to GVEC.net and GVEC.net's service area. GVEC.net objects to and opposes this Petition

¹ 47 C.F.R. §§ 1.415, 1.419; Public Notice, Federal Communications Commission, DA 12-1007 (June 27, 2012).

because: 1.) CenturyLink’s Petition represents an improper attempt by CenturyLink to shift the burden to Wireless Internet Service Providers (“WISPs”) to disprove its general claims rather than any explicit support for its requests; 2.) CenturyLink inaccurately represented the services offered by GVEC.net and the costs to GVEC.net’s customers in its Petition; 3.) CenturyLink’s own “waiver test” defined in its Petition is not satisfied for GVEC.net; and 4.) CenturyLink’s Petition is simply an attempt to gain federal funding in order compete with GVEC.net’s unsubsidized business in GVEC.net’s service area. For these reasons, discussed below, CenturyLink’s Petition should not be granted by the Commission.

DISCUSSION

A. CenturyLink Offers Its General Assumptions Rather Than Explicit Support For Its Petition In An Attempt To Shift The Burden Of Proof To WISPs

CenturyLink seeks a waiver of the Commission’s ban on its acceptance of CAF Phase I funds for use in areas that the National Broadband Map (“NBM”) shows as “served.”² Throughout its Petition, CenturyLink relies on generalized claims about WISPs to explain why the service areas of the companies it has identified should be subject to a waiver rather than explicitly identifying why any one area—let alone why each area listed—should be subject to such a waiver. For example, rather than identifying areas that definitely do not have adequate WISP coverage, CenturyLink focuses in its Petition on “implausible” coverage areas based on its analysis of the NBM.³ This claim by CenturyLink is supposedly justified by the bold but unfounded statement that CenturyLink “could justifiably seek a waiver as to *all* WISP-only areas shown on the NBM in [the states identified]” and not on the basis of any evidence of actual lack of service in those areas.⁴ Similarly, when discussing potential capacity constraints,

² CenturyLink Petition, at 1-2.

³ See, e.g., CenturyLink Petition, at 7.

⁴ *Id.* at 6 (emphasis in original).

CenturyLink discusses those “typically” suffered by WISPs, again with no specific evidence as support.⁵ Such examples are prevalent throughout CenturyLink’s Petition and do little but make clear that CenturyLink seeks to offer up generalizations about service that may or may not be lacking rather than addressing any actual lack of service. More importantly, this tactic is a clear attempt by CenturyLink to shift the burden to potentially impacted WISPs, forcing each to challenge this Petition and demonstrate why a waiver should not be given to CenturyLink for their respective service areas rather than CenturyLink explicitly establishing why a waiver is warranted in each service area due to an actual lack of service.

B. CenturyLink’s Presentation Of GVEC.net’s Services And Costs To Its Customers Is Factually Inaccurate

In listing GVEC.net among the “WISPs Covered by Price, Data Cap or Business-Only Conditions” in Exhibit B of its Petition, CenturyLink is factually inaccurate in its presentation of GVEC.net’s costs to its customers for service. CenturyLink states that the “Estimated Annual Rate” for GVEC.net to deliver 1 Mbps service is \$1,018.40, which is simply incorrect.⁶ GVEC.net does not currently offer 1.5 Mbps service—the baseline service discussed by CenturyLink in its Petition—but does, indeed, offer 1 Mbps as listed, as well 2 Mbps service among its offerings to customers.⁷ In fact, GVEC.net currently offers service plans with speeds of up to 8 Mbps to its customers.⁸ GVEC.net’s 1 Mbps plan is currently priced at \$34.95 per month (\$419.40 annually), and its 2 Mbps plan is priced at \$44.95 per month (\$539.40 annually).⁹ Both plans are subject to a \$99 installation fee and a \$10 monthly fee for equipment

⁵ *Id.* at 8.

⁶ *See* CenturyLink Petition, Exhibit B.

⁷ *See* GVEC.net, Residential—Compare Plans, *available at* <http://gvec.net/residential/comparePlans.aspx>.

⁸ *Id.*

⁹ *Id.*

rental.¹⁰ With installation, the two plans have first-year fees of \$518.40 and \$638.40, respectively, or, for comparison purposes, a “1.5 Mbps” average of the two plans of \$578.40. This total is only marginally greater than CenturyLink’s proposed annual total of \$529.95 for equivalent service.¹¹ GVEC.net’s fees are well below the \$918 per year CenturyLink states that the “typical” WISP customer pays and also below the \$720 per year CenturyLink is using as part of its “waiver test.”¹² Most importantly, this GVEC.net annual total is a far cry from the annual fees of \$1,018.40 listed by CenturyLink in Exhibit B.¹³

CenturyLink additionally misrepresents GVEC.net’s installation rate as \$599.¹⁴ This is presumably the result of CenturyLink adding together GVEC.net’s actual installation rate of \$99 and the *optional* up-front fee of \$500 that customers may choose to pay instead of a monthly \$10 rental fee for equipment.¹⁵ Additionally, like CenturyLink, GVEC.net offers its customers less expensive options as well.¹⁶

C. GVEC.net Does Not Satisfy CenturyLink’s “Waiver Test”

CenturyLink’s stated test for whether WISPs and their service areas should be subject to its waiver request has four prongs: 1.) “WISPs lack the capacity to serve many high-bandwidth subscribers within their service areas”; 2.) “their services will not work at all if there is no line of sight between the customer and the provider’s antenna”; 3.) “they charge recurring and/or non-recurring prices substantially higher than those of wireline broadband providers”; and 4.) “some

¹⁰ *Id.*

¹¹ *See* CenturyLink Petition, at 12. This total is based on CenturyLink’s fees of \$40 per month for service and \$49.95 for professional installation.

¹² *Id.* at 11-12.

¹³ *See id.*, Exhibit B.

¹⁴ *Id.*

¹⁵ *See* GVEC.net, Residential—Compare Plans, *available at* <http://gvec.net/residential/comparePlans.aspx>.

¹⁶ *See id.*; *see also* CenturyLink Petition, at 12.

of them impose unusually stringent data caps as well.”¹⁷ CenturyLink has not established that any of the prongs of this test are satisfied for GVEC.net.

With regard to GVEC.net, the first two prongs of the test are simply generalizations of theoretical potential problems that a WISP and its customers *might* experience. CenturyLink states that WISPs “typically” experience issues with accommodating significant increases in traffic or customers within their service areas, but it offers absolutely no specific examples of any such issues actually negatively impacting any WISP it identifies, let alone GVEC.net.¹⁸ In fact, rather than being seriously hampered by such issues, GVEC.net has a history of actively pursuing the use of new technologies to give it flexibility to offer ever-improving service to its customers. Similarly, CenturyLink discusses general issues regarding coverage and line of sight between WISP transmitters and customer antennas that *might* negatively impact service, but no evidence is offered to suggest that such issues are having a negative effect on GVEC.net’s service to its customers.¹⁹ In truth, such issues need not necessarily plague WISPs at all due to the non line of sight technology available to avoid them.²⁰ Additionally, GVEC.net has engaged in a fiber buildout in portions of its service territory, further establishing a reality of quality service disconnected from CenturyLink’s statements regarding what *might* negatively impact service to WISP customers.

The third prong of the test, as detailed in the discussion above, is simply not satisfied by GVEC.net’s costs to its customers. Finally, the fourth prong of this test is also not satisfied by GVEC.net according the CenturyLink Petition itself, as GVEC.net does not impose a data cap on

¹⁷ CenturyLink Petition, at 7-8.

¹⁸ *Id.* at 8.

¹⁹ *See id.* at 10; cf. CenturyLink Petition, Exhibit A, Declaration of Peter Copeland, at PP 3-7 (discussing areas with potential geographic challenges).

²⁰ *See, e.g.,* WiMAX Forum, *WiMax Technology for LOS and NLOS Environments*, available at <http://www.wimaxforum.org/technology/downloads/WiMAXNLOSgeneral-versionaug04.pdf> (discussing fixed broadband wireless technologies to provide non line of sight coverage).

its customers.²¹ As an additional point, GVEC.net also does not limit its service only to business customers.²² GVEC.net simply does not meet CenturyLink's own standards for a WISP service area where it should be granted a waiver.

D. CenturyLink's Petition Is An Attempt to Win Federal Funding For Competitive Broadband Service In GVEC.net's Service Area

GVEC.net is an unsubsidized fixed wireless broadband provider. By contrast, CenturyLink has offered no plans to compete for customers in GVEC.net's service area absent the funding of \$775 per location it seeks to gain with its Petition.²³ CenturyLink describes the 4 Mbps service it plans to offer as an additional advantage, but GVEC.net is already working under its existing business plan to offer 5 Mbps to all of its customers, in addition to the plans of up to 8 Mbps it already offers within its service territory today. This difference in level of service means that not only is CenturyLink attempting to shift the burden to GVEC.net rather than support its own plans and inaccurately identifying GVEC.net as a WISP that should be listed under its own test, but also that CenturyLink is purporting to offer a "better" service that is actually slower than what GVEC.net is already working to offer. The Commission granting the requested waiver to CenturyLink would not better serve customers and would unnecessarily harm GVEC.net's business by funding competitive broadband in its service area, rather than saving such funds for truly unserved areas. Should funding be made available for use in the GVEC.net service area, GVEC.net, not CenturyLink, will better use it to serve customers.

²¹ See CenturyLink Petition, Exhibit B. CenturyLink lists nothing for GVEC.net under "GB Limit."

²² Cf. CenturyLink Petition, Exhibit A, Declaration of Peter Copeland, at P 12 (listing business-only WISP coverage as reason for waiver in applicable service areas).

²³ See, e.g. CenturyLink Petition, at 3 (describing funding of \$775).

CONCLUSION

CenturyLink's Petition should not be granted. Alternatively, should the greater Petition be granted, the requested waiver should not be granted for the GVEC.net service area for the reasons stated above.

Respectfully submitted,

/s/ Mark C. Davis

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Attorneys for **GVEC.NET**

Dated: July 12, 2012

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon the parties identified on the Commission's Public Notice DA 12-1007, dated June 27, 2012.

Dated at Washington, D.C., this 12th day of July, 2012.

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